Reply

IN THE SUPREME COURT OF INDIA

(CIVIL APPELLATE JURISDICTION)

S.L.P (C) NO. 25407 OF 2018

IN THE MATTER OF:-

Ramsita Mahalakshmi PBK & Others .....Petitioners

Versus

Golden Forest India Limited And Others.....Respondents

Counter Affidavit On Behalf of Respondent No.1 Committee -Golden Forest India Ltd.

MOST RESPECTFULLY SHOWETH :

1. The answering Respondent is filing a short counter affidavit for the purposes of opposing the present Special Leave to Appeal and seek liberty to file a detailed Counter Affidavit if deemed fit by this Hon'ble Court.

2. At the outset, the statements, allegations, contentions made in this petition, which are contrary to or inconsistent with what has been stated herein below are denied and are deemed to be set traversed in seriatim.

3. The present Special Leave Petition has been filed by the petitioner challenging the impugned final order dated

15.02.2018 passed by the Hon'ble High Court of Delhi in C.M No. 12506/2017 in WP No 1399/2010. The issue involved in the present Special Leave Petition is that the Petitioners are claiming to be aggrieved by the order of the Hon'ble Court where the 125 claims of the petitioners made before the Respondents Committee were rejected.

4. The answering respondent is the Committee which was constituted on 19.8.2004 by the Hon'ble Supreme Court in the matter T.C. (C) No. 2/2004 with the directions to invite claims from the investors of the Golden Forests Group of Companies and to take possession and sell the properties of the Golden Forests Group of Companies subject to the confirmation by the Hon'ble Supreme Court of India. Pursuant to the order, on 25th August 2004, the Committee (GFIL) issued an advertisement calling upon the investors & creditors/depositors to file their claim against the Company M/s Golden Forests (India) Ltd.

5. That the Respondent No.1 Committee approached the Supreme Court of India to fix a cut off date for receipt of the claims from the investors of the Company-GFIL due to countless claims being received daily. That on 5th September 2006, the Hon'ble Supreme Court in Para-47 of its order fixed 10.08.2006 as the cut-off date for the receipt of claims. Para-47 reads as:-

"47. Counsel appearing for the Committee has stated before us that the claims have been received even

after 20th May, 2005 and the Committee have included all the claims filed before it up to 10th of August 2006. Cut off date is fixed as 10th August, 2006. Hence, all claims filed before the Committee by the cut off date fixed, i.e., 10th August, 2006 be taken into consideration for disbursement of the assets of the GFIL after verification of the claims. The Committee should accept the claims of only those claimants, who have original authenticated receipts issued by the GFIL. The Committee shall categories the range of investment by depositors and treat the small, medium and big investors in separate categories. Appropriate orders regarding disbursement of the amount among the small, medium and big investors shall be passed at a later date, after the total amount of sale of the properties is received. The Committee shall not entertain claims passed on alleged deposits accepted by any agents in the year 2001 till date after the closure of the business of the GFIL. No claim without clear proof of deposit of money with the company shall be considered."

6. That pursuant to the advertisement inviting claims by the Committee, AIVV submitted 142 claims based on notarized photocopies of receipts of deposits and 134 claims based on notarized photocopies of Guarantee cum Performance deed. Subsequently after the announcement of cut-off date the Petitioners submitted 267 original

receipts and 33 Guarantee cum Performance Deed during the period of 28.11.2006 to 06.01.2007 which is after the fixed cut-off date.

7. That the Respondent Committee after careful scrutiny of the claims filed by the claimants passed an order on 24.01.2007 and allowed the 142 claims of the claimants and rejected 125 claims out of 267 claims filed by the Petitioners on the basis that the original receipts were received after the cut-off date as well as on merits.

8. The authentication of these receipts submitted by the petitioners in support of their claims appeared to the Committee to be doubtful. Also, the nominees of most of the deposits were same i.e. Mr. Virender Deo Dixit and Mrs. Kamla Devi Dixit of Adhyatmic Ishwariya Vishwavidyalaya in the cases where Sh. Virendra Deo Dixit is the co-investor, Smt. Kamla Devi Dixit.

9. That the claims were filed by one Shri Virendra Deo Dixit claiming to be the General Power of Attorney whereas these claims were required to be filed only by the individual investor/depositors.

10. That the members of the organisation known as Adhyamic Ishwariya Vishwa Vidyala (AIVV) through their Spiritual Father-cum-alleged Special Attorney Sh. Virender Deo Dixit filed three representations before the Respondent No. 1 Committee. The representation no. 1 was regarding the 125 claims have been made by

different members of the said organisation against the Company Golden Forests (India) Ltd. based on their respective investments. Representation No. II, was in respect of 106 claims and in Representation No. III, 24 similar claims were made. The Respondent No. 1 Committee vide its order dated 08.07.2016 rejected all the three representations on the ground of delay and on merits.

11. That the Petitioner (members of AIVV) being aggrieved by the order passed by the Respondent Committee on 24.01.2007, filed CM Nos. 4369/2010, 4371/2010, 4371/2010, 10960/2010 and 10965/2010 which were disposed of by the Hon'ble High Court of Delhi vide its order dated 16.11.2010 and the Petitioners purporting to be in compliance with the order dated 16.11.2010 of the Hon'ble High Court of Delhi, filed three sets of representations all dated 25.01.2016, before this Committee. Also, it is pertinent to note that these representations were filed by one Virendra Deo Dixit claiming to be the General Power of Attorney whereas these claims were supposed to be filed only by the investor/depositors. The depositors have also to give clear proof of the deposit of money with the Company. And in the present case not a single depositor has individually filed the claim before the committee and also upon disbursement of the amount the payment has to be made to the depositors and not to any third party.

12. Further, in the advertisement inviting claims which were widely advertised throughout India. The investors were required to submit the claim in the prescribed format. Each investor was to fill the format giving the requisite particulars alongwith the original receipt and duly signed by him/her legibly in capital letters at the space provided. The investor was clearly warned that no power of attorney shall be accepted/entertained. The above particulars would have definitely helped in finding out the genuineness of the receipt.

13. The Special Power of Attorney does not mention the name of the investor, his/her parentage, home address, the amount invested and the deposit receipt. It is also completely silent with regard to any individual investment made with the Company-Golden Forests (India) Ltd. Further, the Power of Attorney does not confer any Power/Authority on the Power of Attorney holder to file any claim with the Committee (appointed by the Hon'ble Supreme Court) regarding the investments (individual deposit receipts) made with the Company before the Committee-GFIL. None of the executants can be identified from a mere reading of the Special Power of Attorney.

14. However, the status and capacity of Virender Deo Dixit is not known and the purported deposits have not been proved by any of the depositor. Also, Virender Deo Dixit or

his wife Kamla Deo Dixit is the nominee of all purported depositors also raises doubt about genuineness of deposit, claim and bonafide of Virender Deo Dixit.

15. That the pronouncement by the Hon'ble Supreme Court fixing the cut-off date for receipt of the claims as on 10.08.2006 was final and binding on all. It could not be termed technical requirement/direction. The Committee is not competent to relax application of this direction.

16. However, the Hon'ble Supreme Court vide its order dated 27.11.2018 has allowed the Respondent No. 1 to keep the portals open for inviting fresh claims of the investors.

17. In view thereof, it is submitted on behalf of the answering respondent that in case the claimants represented in the above Special Leave Petition filed individual authenticated claims and upload the same along with the necessary details of their bank accounts, the same may be ~~entertain~~. considered

18. The above is subject to directions passed by this Hon'ble Court.

Filed by

Dated:10.4.2019 (SURUCHII AGGARWAL)

Advocate on Record

IN THE HON'BLE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. 25407 OF 2018

IN THE MATTER OF:

RAMSITA MAHALAKSHMI PBK & OTHERS ...PETITIONERS

VERSUS

COMMITTEE, GOLDEN FORESTS INDIA LIMITED & OTHERS ...RESPONDENTS

AFFIDAVIT

I, Shri Brij Mohan Bedi S/o Shri Sadhu Ram Bedi, aged 69 years, R/o H. No. 22, Sector - 4, Panchkula,, do hereby solemnly affirm and declare as under:-

1. I am one of the members of the Committee appointed by Hon'ble Supreme Court of India and I am duly authorized and being fully conversant with the facts and circumstances of the case, I am competent to swear this affidavit
2. That I have read the contents of accompanying reply which has been prepared under the instructions of the Committee.
3. That the contents of accompanying reply are true and correct to the best of my knowledge and derived from record of the case. The Annexures are true copies of their respective originals.

DEPONENT

VERIFICATION

I, the deponent above named, do hereby verify and state that the contents of paragraph 1 to 3 of the above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified on the 9th day of April, 2019.

DEPONENT